

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

| | | |
|---|---|---------------------------|
| Joseph Hannah, #208969, |) | C/A NO. 3:09-2232-CMC-JRM |
| |) | |
| Plaintiff, |) | |
| |) | |
| -versus- |) | OPINION and ORDER |
| |) | |
| South Carolina Dept. of Correction; and |) | |
| an Unknown Defendant, Officially and in |) | |
| the Individually Capacity, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

This matter is before the court on Plaintiff's *pro se* complaint alleging violations of 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Joseph R. McCrorey, Jr., for pre-trial proceedings and a Report and Recommendation ("Report"). On June 15, 2010, the Magistrate Judge issued a Report recommending that Defendants' motion for summary judgment be granted and this matter dismissed with prejudice. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff has filed no objections and the time for doing so has expired.¹

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo*

¹It appears Plaintiff has been released from SCDC custody, as his copy of the Report and Recommendation was returned to this court. *See* Dkt. # 28. Plaintiff was specifically advised that failure to keep the Clerk advised in writing of any change of address could result in the dismissal of his case. *See* Order (Dkt. # 8, filed Sept. 11, 2009).

determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After reviewing the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order.

Plaintiff’s motion to strike is **denied**. Defendants’ motion for summary judgment is **granted** and the federal claim in this matter is dismissed with prejudice. Any existing state law claims are dismissed without prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
July 7, 2010

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